

SENATE RECORD VOTE ANALYSIS

104th Congress
2nd Session

Vote No. 67

April 17, 1996, 2:44 p.m.
Page S-3450 Temp. Record

TERRORISM PREVENTION CONFERENCE/Information on Explosives

SUBJECT: Conference report to accompany the Antiterrorism and Effective Death Penalty Act of 1996 . . . S. 735.
Hatch/Dole motion to table the Biden motion to recommit with instructions.

ACTION: MOTION TO TABLE MOTION TO RECOMMIT AGREED TO, 51-48

SYNOPSIS: The conference report to accompany S. 735, the Terrorism Prevention Act, will enact law enforcement provisions to prevent terrorism and to apprehend and punish terrorists, and will reform Federal and State capital and noncapital habeas corpus procedures.

The Biden motion to recommit with instructions would direct Senate conferees to insist on adopting the provision from the Senate-passed version of the bill that will make it unlawful to distribute information on the making of explosive materials with the intent or knowledge that the information will be used for criminal purposes.

Debate was limited by unanimous consent. Following debate, Senator Hatch, for himself and Senator Dole, moved to table the Biden motion. Generally, those favoring the motion to table opposed the motion to recommit; those opposing the motion to table favored the motion to recommit.

Those favoring the motion to table the motion to recommit contended:

We do not entirely disagree with our colleagues on this motion. No one should teach people how to make bombs with the intent or knowledge that those people will use that knowledge to commit crimes. To an extent, it already is illegal to teach people how to make bombs--if there is knowledge that a specific crime will be committed, or if there is the intent that a specific crime will be committed, then the person who transmits the information is guilty of conspiracy to use an explosive to commit a felony, and may be prosecuted under 18. U.S.C. 844(h). However, it is not illegal to teach people to make bombs knowing that they will use or intend to use that knowledge for criminal purposes. Our colleagues believe that it should be. We tend to agree, but we also acknowledge the valid concerns that have been raised by House Members on the far left of the Democratic Party and on the far right of the

(See other side)

YEAS (51)		NAYS (48)		NOT VOTING (1)	
Republicans (51 or 98%)	Democrats (0 or 0%)	Republicans (1 or 2%)	Democrats (47 or 100%)	Republicans (1)	Democrats (0)
Abraham	Hatfield	Specter	Akaka	Inouye	Mack- ²
Ashcroft	Helms		Baucus	Johnston	
Bennett	Hutchison		Biden	Kennedy	
Bond	Inhofe		Bingaman	Kerrey	
Brown	Jeffords		Boxer	Kerry	
Burns	Kassebaum		Bradley	Kohl	
Campbell	Kempthorne		Breaux	Lautenberg	
Chafee	Kyl		Bryan	Leahy	
Coats	Lott		Bumpers	Levin	
Cochran	Lugar		Byrd	Lieberman	
Cohen	McCain		Conrad	Mikulski	
Coverdell	McConnell		Daschle	Moseley-Braun	
Craig	Murkowski		Dodd	Moynihan	
D'Amato	Nickles		Dorgan	Murray	
DeWine	Pressler		Exon	Nunn	
Dole	Roth		Feingold	Pell	
Domenici	Santorum		Feinstein	Pryor	
Faircloth	Shelby		Ford	Reid	
Frist	Simpson		Glenn	Robb	
Gorton	Smith		Graham	Rockefeller	
Gramm	Snowe		Harkin	Sarbanes	
Grams	Stevens		Heflin	Simon	
Grassley	Thomas		Hollings	Wellstone	
Gregg	Thompson			Wyden	
Hatch	Thurmond				
	Warner				

EXPLANATION OF ABSENCE:

1—Official Buisiness
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:

AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

Republican Party. How does one prove intent or knowledge? Must all information on explosives, including intellectual property rights that one may wish to market for legitimate purposes, be kept as closely guarded secrets? If someone misuses information, should the person who made that information really be held liable because he or she should have "known" that information on explosives may be misused for criminal purposes? Though we favor criminalizing the distribution of information on explosives with the intent or knowledge that it will be used in criminal activities, we also recognize that House Members raised very legitimate first amendment and property rights concerns in conference. Accordingly, conferees determined that the wisest course to follow would be to subject the issue to an in-depth study. When the results of that study are available, we will be ready to again act on this issue.

At this point, though, there is no possibility that the House will return to conference to accept this controversial provision. Our colleagues are of course aware of that fact. They are presenting us with a series of motions to recommit that make demands on the House that they know many House Members strongly oppose. In our opinion, many Senators who are supporting these motions to recommit are doing so because they realize that recommitting the bill will make a further conference agreement impossible. It took nearly a year to get the House to act and then resolve its differences with the Senate on S. 735. The careful balance that has been achieved would fall apart if the Senate were to send this report back to the conference committee. The reason we think many Senators are trying to kill this bill by recommitting it is that they strongly oppose the habeas corpus reforms that are in this bill. They are particularly upset that it will make it impossible for death row inmates to delay their executions with endless frivolous appeals. They know that they do not have the support of a majority of Senators to stop the enactment of S. 735's habeas corpus reforms, so they are trying to kill the whole bill with the procedural tactic of supporting these motions to recommit. We do not expect them to succeed in this effort. We are confident that we have the votes necessary to block their motions to recommit. We urge our colleagues to join us in tabling this motion.

Those opposing the motion to table the motion to recommit contended:

Senators who believe we should criminalize items such as "The Terrorist Handbook," "How to Kill With Joy," or "Baby Food Bombs by War Master," all of which we have found on the Internet, should join us in defeating this motion to table. Sick, deranged people have posted these documents which go into explicit detail on how to make bombs. Anyone, including children, can access these documents, and their authors intend for them to be used for illegal activities. The document "Baby Food Bombs" begins with the following: "These simple, powerful bombs are not very well known, even though all of the materials can be obtained by anyone (including minors). These things are so (expletive deleted) powerful that they can destroy a CAR. The explosion can actually twist and mangle the frame * * * Here is how they work . . ." After detailed, step-by-step instructions for purchasing parts and constructing a bomb, the document concludes, "If the explosion don't get'em, the glass will. If the glass don't get'em, the nails will." Our Republican colleagues who joined us in offering this amendment last year now are willing to put this issue aside while a study is conducted. They are now willing to examine first amendment and property rights before they take the needed action. Interestingly, when they banned children's access to pornography on the Internet last year, they did not need a study to tell them that children having access to pornography was so damaging that it overrode first amendment and property rights concerns. Now, though, at least some House Members need a study to tell them why people should not give children detailed instructions for making bombs, with the knowledge or intent that those bombs will be used illegally. Frankly, "knowledge or intent" is a very high standard that more than adequately protects legitimate needs for exchanging information on explosives.

We know that our Republican colleagues will defeat this motion, not because they disagree with it, but because they say that the House will never accede to it. We think they are wrong. If the issue becomes only whether this activity should be criminalized, the publicity will force the House to accede to the Senate. We urge our Republican colleagues to reconsider their opposition. We can get this bill enacted, and we can get it enacted with a ban on distributing information on making bombs. We therefore urge the rejection of the motion to table.